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DEPARTMENT OF MENTAL RETARDATION

TRANSITION

BRIEFING BOOK

9/11/15

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DMR TRANSITION BRIEFING BOOK

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GOVERNMENT DOCUMENTS
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OVERVIEW OF THE DEPARTMENT

In December 1986, legislation was enacted calling for the division of the Department of Mental Health and the establishment of a new Department of Mental Retardation (DMR). The mandate of DMR as stated in Chapter 19B of the Massachusetts General Laws is to "take cognizance of all matters affecting the welfare of the Commonwealth's citizens with mental retardation." In accordance with this mandate, the mission of the Department is to ensure that services provided to people with mental retardation are of high quality, responsive to individual needs, and provided in environments that are safe and healthful. Further, the Department is committed to creating opportunities for people with mental retardation to become fully integrated participants in our communities through providing choices, promoting individual development, encouraging family involvement, and emphasizing participation by citizens with mental retardation and their families.

ADMINISTRATION

BUDGET: \$14M

The administrative structure of DMR manages a service system of over \$580M including both an institutional and community component. DMR has five (5) Community Service Centers which manage the community system and provide program planning, development direction, and administrative support to 18 Case Management Teams. In addition, DMR operates 7 state facilities. There is one Central Office, located in Boston.

The Department is currently staffed at 40% of the administrative staffing model identified to manage an agency of this size and complexity. Approximately 2.1% of DMR's funding supports administrative functions.

The Department manages an array of residential, day, vocational, and transportation services to over 21,000 people with mental retardation in a variety of settings -- the majority of people, however, live at home with their families. The six general services provided are:

- o state schools and regional centers;
- o community-based residences;
- o community-based day and work programs;
- o transportation services;
- o respite and family support services; and
- o service coordination
- o children's services
- o emergency services

STATE SCHOOLS

BUDGET: \$265M

The Department operates seven State Schools and Developmental Centers for people with mental retardation. The Schools and

Regional Centers provide 24 hour residential and habilitative services to over 2,800 adults with mental retardation. Services provided include residential (i.e. food and clothing), life skills training, nursing, medical, vocational, and clinical services such as occupational therapy, physical therapy, psychology, and communication. All of the state schools are in compliance with the standards established by the Title XIX Medicaid Regulations and will receive \$160M in federal reimbursements this year.

In March of 1989 the Department announced plans to close the Belchertown State School (BSS) over a three year period. All of the BSS residents, approximately 285, will move into community-based residential programs in their community of choice. The phase down and the operation of the new community programs will be accomplished within the existing DMR budget.

COMMUNITY-BASED RESIDENTIAL PROGRAMS

BUDGET: \$200M

DMR provides a wide variety of community-based residential programs. These programs afford persons with mental retardation the opportunity to become active participants in their local cities and towns. Residential programs vary from medically intensive programs and staffed apartments which provide 24 hour a day supervision, to highly independent living environments. Community residential programs also provide a wide array of support services which, depending on the need of the individual, help residents to acquire basic living, interpersonal, and/or money management skills among others. DMR will collect \$30M in Medicaid reimbursement for these programs this year.

The Department currently serves over 5,200 people with mental retardation in community-based residential programs. These individuals are in programs funded in three different ways:

- o Approximately 4,800 are in residences operated by private providers (such as Associations for Retarded Citizens and other human services agencies) and funded by DMR through contractual (Purchase of Service) arrangements;
- o Another 460 individuals reside in state-operated community residences run by the department. Over 1300 staff have been transferred out of the state schools to operate these programs over the last three years;
- o In addition to the 5,200 people in DMR-funded programs, 320 individuals live in Intermediate Care Facilities for the Mentally Retarded (ICF/MR) run by private providers and funded through the Department of Public Welfare's Medicaid program.

Residents include former state school residents, people who have lived in the community all their lives particularly



those whose parents are elderly and can no longer care for them, and individuals who became eligible for residential services through the Turning 22 program.

COMMUNITY-BASED DAY PROGRAMS

BUDGET: \$53M

DMR provides a variety of day programs in the community to individuals living either at home or in DMR funded residential settings. These programs range from those which are educational in nature to those which are geared toward providing employment opportunities. Their goal is to help people reach their greatest level of independence.

DMR currently serves over 5,800 people in day programs including 1,500 people in work programs. In addition, there are over 1,400 persons with mental retardation who are currently served in Medicaid funded day habilitation programs, which provide medically oriented therapeutic services to individuals who are multiply handicapped. Administered by the Department of Public Welfare, these programs must meet federal Title XIX standards and policies. In addition, there are approximately 1,000 mentally retarded people attending day programs through Massachusetts Rehabilitation Commission.

TRANSPORTATION

BUDGET: \$25M

Any mentally retarded adult attending a day program funded by DMR, the Massachusetts Rehabilitation Commission (MRC) or other state agency is entitled to transportation to and from that program. This service is managed by DMR and provided through contracts with over 120 vendors as well as through subsidies to parents and public transit authorities.

Each day over 8,200 individuals receive rides from their homes to day programs and back. Transportation services are particularly beneficial as they allow working parents to maintain employment schedules while their adult children are transported to work or day program sites. Wherever possible, however, riders do use public transportation or have family members transport them. DMR has been an active participant in efforts to coordinate other special needs transportation for elderly or disabled people.

RESPIRE AND SUPPORT SERVICES

BUDGET: \$21M

Respite Care and Family Support programs are designed to provide the supports and/or interventions necessary to allow people with mental retardation to live at home with their families whenever possible. Services range from regular respite hours designed to relieve families who care for their children or other family members with mental retardation at home, to clinical teams which can intervene and provide the services necessary to help prevent

the need for structured residential services.

In the long term, these are perhaps the most effective and cost-efficient services DMR provides. They provide the assistance families need to enable people with mental retardation to live at home as long as possible in those situations where this is the preferred option. This is particularly important for children under the age of 22, where respite and family support services can complement the local school programs and prevent the need for an out-of-home placement.

SERVICE COORDINATION

BUDGET: \$9M

All mentally retarded individuals found eligible for Department of Mental Retardation services are to be assigned a service coordinator, an integral part of the Case Management Team (there are 18 Case Management Teams across the state). The Service Coordinator is a mental retardation professional who functions as the key facilitator for the development of each person's Individual Service Plan (I.S.P.). The service coordinator is responsible for coordinating, integrating and monitoring services provided to people, and acts as an advocate on behalf of the individuals on their caseload, ensuring awareness of their legal, civil and human rights. Service Coordinators also provide information and referral services and play a major role in locating and arranging for generic services available in a community e.g. medical and dental services.

SERVICES TO CHILDREN

BUDGET: \$3M

The goal of the Department's services to children is to insure that children with mental retardation or autism live in familiar situations and are in and of their communities. The Department designs its supports to insure that they strengthen, fortify, enable and empower families to become independent of the helping system. To achieve these benefits for children, the Department is committed to working with the Department of Education and other state and local, public and private, child-serving agencies. Working together the child-serving agencies can insure that children most likely to need an out-of-home placement receive the supports they require to remain at home. This goal benefits children and simultaneously avoid costs for the state.

EMERGENCY RESPONSE SYSTEM

BUDGET: \$5M

The Department has developed a comprehensive emergency response system whose main objective is to provide the necessary clinical and staffing supports needed to help individuals remaining at home with their families or in community residences and day programs. If this is not possible, the system insures that individuals receive specialized services in a timely manner.

While the models vary slightly, each Community Service Center has access to an emergency clinical response team, emergency respite beds, inpatient psychiatric beds in private and general hospitals, and follow-up services through outpatient clinics.

The emergency response system through prevention and early intervention initiatives has greatly reduced the number of costly inpatient psychiatric admissions, as well vastly improved quality of care for individuals with challenging behavior problems and mental health issues.

The total cost of the system is approximately 4.7 million dollars. To the greatest extent possible, revenue is secured through Medicaid and other third party reimbursable sources.

DMR REVENUE

Current Revenue

DMR will collect \$204M in revenue in FY91, representing 35% of the Department's total budget. Of that amount, \$197M will go to the General Fund; \$6.9M will be retained by DMR to fund programs. DMR's revenue has increased 21% since FY88.

School Revenue

The largest source of revenue is Medicaid reimbursement for the state schools; DMR will collect \$160M in FY91 from federal reimbursement for residents of the schools. All DMR facilities are certified by Title XIX and eligible for reimbursement.

In addition, DMR has a charges for care system for school residents whose income is above a certain level. Those charges for care will amount to approximately \$1.4M this year.

Community Revenue

HCFA currently limits the number of community program residents are reimbursed under the Omnibus Waiver, through which Medicaid reimburses for services provided to people who would require institutionalization if community services were not available. DMR is currently working with HCFA to expand the number of people eligible for Waiver coverage. The Department anticipates receiving over \$30M in Waiver reimbursement in FY91. Five million of that reimbursement will be retained by the Department to fund placements for people placed from DMH facilities to DMR programs (See "Current DMR Program Initiatives").

DMR operates a number of small residential programs which meet federal reimbursement standards as Intermediate Care Facilities (ICF's). Approximately \$5.5M will be collected in Medicaid funding for these 8-bed ICF-MR's.

In FY89, DMR began billing Medicaid for case management services. That new revenue initiative will generate \$3.5M in FY91.

As part of a new FY91 revenue initiative, DMR will begin billing for transportation services to Medicaid reimbursable day programs, which should generate \$1M this year.

Potential Revenue Ideas

Conversion of Existing Programs

DMR is currently working with Medicaid to make more of our existing programs Medicaid reimbursable. Based on the intensity of the programs, their staffing levels, and the buildings where they are sited, we anticipate converting 4 to 6 residential

programs, and 2 day programs to Medicaid reimbursable programs. These are among the most expensive programs run by DMR, due to the high staffing levels required by the residents. In addition, DMR is proposing that all transportation to Medicaid reimbursable programs be converted to be part of those programs. It is appropriate that Medicaid should reimburse these intensive program models. These conversions will not increase the Medicaid deficit, they simply increase revenue collected by the Commonwealth.

Reimbursement for PCA Services

Medicaid also reimburses for Personal Care Attendant services, which are defined as providing help in daily living activities such as dressing, shopping, or preparing food for people who could otherwise live independently. By providing this less expensive service, PCA's help people remain at home, out of nursing homes, or other more expensive program models.

There has been discussion for years as to whether this model can be applied to DMR services without costing the state more money. Clearly, many of the services provided by DMR could be reimbursed by a relaxed definition of PCA. However, that relaxed definition might make thousands of people currently on waiting lists entitled to services the state does not currently provide, since Medicaid services are, by definition, entitlements.

The Department of Public Welfare is under pressure from providers and clients to implement an expanded version of PCA services. At this point, it appears that Medicaid is going to define PCA entitlements in such a way that the reimbursement for existing DMR services will roughly offset the cost of the new entitlements. This will mean more people can receive services for the same level of state funding.

Reimbursement for Vocational Rehabilitation Services

This is a type of federal reimbursement which may apply to DMR services. If it does, DMR could collect far more reimbursement on existing day services. However, there is some disagreement on whether the federal government will agree that services to people with mental retardation are "rehabilitative", since the people served are not "cured." There are states which have most of MR day services reimbursed through vocational rehabilitation. Massachusetts does receive vocational rehabilitation reimbursement for disabled individuals, including those who are mentally retarded, through the Massachusetts Rehabilitation Commission. Consultants to the Comptroller have suggested that further federal reimbursement is unlikely. This is a question worth further exploration.

Sliding Fees

DMR has explored the question of charging clients for care. As



discussed above, school residents are already subject to charges for care. In addition, anyone in a community residential program is charged 75% of their SSI (a charge of approximately \$400/month) by the program provider for room and board. Since FY90, budget language has included the stipulation that fees may be established for people with incomes over 200% of the federal poverty line (\$11,960).

In FY90, DMR conducted a Client Income Survey which showed that virtually no one served by DMR has an income that high. Since DMR primarily serves adults, parents cannot be required to pay fees. And since many of those adults are not competitively employed, they cannot afford to pay significant fees themselves. DMR is exploring the possibility of collecting voluntary contributions from families.

EFFECTS OF FY91 CUTS

During FY90, DMR's budget was cut \$9.1M, with the major impacts being felt in administration, transportation, and support services. DMR's FY91 budget has been cut \$48M since July 1991. That includes:

- \$24M in across-the-board reductions made by the Legislature in the final budget;
- \$3M in account-specific reductions made by the Administration on September 4;
- \$21M in across-the-board reductions made by the Administration on September 26.

DMR developed a proposal to make those cuts, prioritizing maintaining the types of services most critical to the lives of the neediest people we serve: residential, day and respite services. The first cuts were made in administration, however, to achieve savings of \$48M requires DMR to reduce services.

Many of those reductions have been completed, as detailed below. However, another set of cuts was contested in Federal Court, and the Administration and plaintiffs agreed before Judge Tauro that those cuts will be negotiated with the plaintiffs.

Cuts Already Made

DMR is implementing or has already implemented the following cuts worth a total of \$21.276M. These cuts include:

Administrative Cuts: \$3M

DMR has made sweeping operational changes, consolidating administrative functions and reducing offices across the state. This includes eliminating all regional offices and local service centers, establishing a single tiered service system with 5 Community Service Centers which will have administrative staff as well as 18 case management teams. These cuts include 73 layoffs, and the cancellation of 7 leases. DMR's administrative budget is now only 2.1% of its entire agency budget.

Respite Services: \$3.5M

Respite care services have been reduced \$2M, a 17% reduction in existing services. In addition, \$1.5M was included in the FY91 budget for expansion of respite, which will not be implemented.

Respite care is one of the few services available to those families who care for their family member with mental retardation at home. Up until this year, approximately 10,000 families received respite services from the Department.

Support Services: \$2M

Clinical intervention teams, a support service for people with mental health needs as well as mental retardation, have been significantly reduced, jeopardizing the stability of placements from state hospitals, as well as other dual-diagnosed people living in the community.

Transportation: \$2M

DMR has already cut \$1M from the transportation system which was originally intended for cost-of-living increases to providers. They have received no COLA for two years; given the rapid increasing fuel costs this year the strain on the system is significant.

DMR is working with the Department of Public Welfare to transfer a portion of the transportation system to DPW so that it is Medicaid reimbursable, which will save an additional \$1M.

State School Reductions: \$8.6M

517 positions have been eliminated from the state's MR facilities. This cut was discussed with the plaintiffs, and is consistent with court approved staffing methodologies. DMR believes staffing levels will continue to be in compliance with Medicaid (Title XIX) regulations.

These cuts were implemented in a manner which would have the smallest impact on direct services to state school residents. While direct service staff comprise over 60% of the state school workforce, only 38.8% of the 517 total layoffs came from direct services slots.

Conversely, administrative personnel, which comprise only 10% of the state school workforce overall, account for 18% of the layoffs. An additional \$1.6M will be saved through reductions in non-personnel expenses in the schools as well.

Involvement of Federal Court

Implementation of further reductions became involved in DMR's Consent Decree (see "Legal Issues").

In October, 1990, after initial discussions, the plaintiffs in the consent decrees requested that Federal District Court Judge Tauro review the proposed cuts.

Those proposed cuts, totalling \$23.6M included:

- Reduce service coordination (case managers) by 35%, resulting in 125 fewer service coordinators. This proposal would have saved \$2.475M; it has been withdrawn.

- Eliminate MR transportation system, and attempt to arrange alternative transportation wherever possible. Savings if implemented by January 1: \$6.5M.
- Reduce staffing at state schools by approximately 941 positions. Savings if implemented by January 1: \$11.75M.

After several days of hearings on reductions in case management services, an agreement between the parties was made and approved by the Court. In approving the agreement, Judge Tauro emphasized the best interests of mentally retarded persons and sound professional judgement as the standards for cuts and rejected all unilateral actions to reduce services.

The parties will now meet to discuss and negotiate over proposed savings that can be appropriately achieved. These discussions are now underway. As part of this agreement, service coordinator positions will not be reduced.

CURRENT DMR PROGRAM INITIATIVES

FAMILY SUPPORT AND RESPITE CARE

Since the Department's inception in 1987, Family Support programs have been the centerpiece of the DMR mission. These programs help to keep families intact. Family Support provides flexible services designed to enhance the family's ability to provide care at home for children or adult family members with mental retardation. Family Support programs provide a family with whatever they need to maintain their family member at home. These programs include: information and referral, behavioral training, parent and sibling support groups, and companionship services.

Respite Care programs help families and individuals with mental retardation to become fully participating members of their local communities. Types of respite services include: home-based respite, facility-based respite, residential camps, and residential respite.

In addition to being programmatically sound, Family Support and Respite Care programs are also extremely cost effective by helping to avoid the necessity for expensive residential placements.

BELCHERTOWN PHASEDOWN

In January 1990 the Department began a three year phasedown of the Belchertown State School (BSS). The phasedown will allow the Department to serve current Belchertown residents in smaller community settings and close a large facility at no additional cost to the Commonwealth. Through attrition and layoffs completed during FY'90, over \$3 million was saved. This savings has supported the placement of 40 BSS residents into community residences to date, and with additional staffing reductions, will fund placements for an additional 100 people in FY'91.

PLACEMENTS OUT OF DMH FACILITIES

Beginning in FY'91, as part of an innovative funding agreement, DMR is working with DMH to place 166 people with mental retardation out of DMH facilities and into more appropriate residential programs. This year's budget includes a reserve account, from which DMR can draw \$28,800 for each person placed from a DMH facility into MR services. Because these services will be appropriate, and will be in Medicaid certified programs, DMR can collect Medicaid reimbursement for them, providing a \$28,800 match in retained revenue. Thus, people requiring



THEORY OF THE EARTH

1. THE EARTH AND ITS HISTORY

The Earth is a planet in the Solar System, the third from the Sun, consisting of a rocky body with a thin atmosphere and a liquid surface. It is the only known planet to support life. The Earth's history is a long and complex one, spanning billions of years. It began with the formation of the Solar System, and has since been shaped by a variety of geological and biological processes. The Earth's history is divided into several eras, each with its own unique characteristics and events.

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2. THE EARTH'S STRUCTURE

The Earth is a planet with a complex internal structure. It is composed of several layers, each with its own unique properties and characteristics. The Earth's structure is divided into several layers, each with its own unique properties and characteristics. The Earth's structure is divided into several layers, each with its own unique properties and characteristics.

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programs which cost an average of \$57,600 are served in far more appropriate settings, at no net increase in cost to the Commonwealth.

As of October 30, 1990, 42 people have been placed from DMH facilities into MR programs. Approximately 105 will be placed by the end of FY'91, the remainder will be placed in FY'92. Over the past three years DMR has placed a total of 255 people out of DMH facilities.

SUPPORTED EMPLOYMENT

Supported employment programs afford individuals with developmental disabilities the opportunity to work next to their fellow non-disabled citizens in standard and integrated work environments. Currently over 1500 people with mental retardation work in supported employment programs in over 400 companies across the state.

The Department is pursuing an initiative to completely phase out the more segregated sheltered workshop programs within the next five years. All FY'91 sheltered workshop contract proposals were required to include a detailed five year plan to convert all workshops to supported employment programs.

CHILDREN'S SERVICES

The Department is working closely with the Department of Education, the Department of Social Services, and local school systems to prevent out of home placements for children with mental retardation. Through Family Support and Respite Care programs, DMR is making a concerted effort to help parents and other family members to care for their mentally retarded child at home, however, when out of home placements are unavoidable, the Department is working to ensure that these placements are as temporary as possible.

OBRA NURSING HOME REFORM

The number of mentally retarded individuals placed in nursing facilities varies from state to state. In 1982, however, the Health Care Financing Administration (HCFA) estimated that up to 10% of the residents of SNF's were individuals with mental retardation who would be more appropriately placed in ICF/MRs. The inclusion of the nursing home reform package in the Omnibus Budget Reconciliation Act of 1987 (OBRA), represents a response to this issue of inappropriate placement and services by

requiring each state to develop a preadmission screening/annual resident review (PASARR) process for individuals with mental retardation, developmental disabilities or other related conditions who resident in, or are seeking admission to, nursing facilities.

The purpose of these assessments is to determine the appropriateness of these placements and subsequently to provide alternative services where placements are found to be inappropriate.

The legislation also requires each state to submit an Alternative Disposition Plan which lays out the state's plan to meet the service needs of those individuals found to be inappropriately placed or in need of additional services.

The Department has complied with both requirements of this legislation. By April 1990, 1,648 assessments had been completed and currently a new round of reviews is in process. An Alternative Disposition Plan was submitted to HCFA and accepted. Because of changes in the determination criteria recently made by HCFA, accurate data will not be available until the second round of assessments are completed. However, it is clear that there will be residents found inappropriately placed or in need of additional services. Resources to provide these services are not currently available.

INTEGRATED CLIENT DATABASE

DMR is implementing a client database which will track basic demographic, program, and billing information about all DMR consumers. This is a major undertaking involving equipment purchase and installation throughout the state, standardization of intake and program information, and computer training for hundreds of employees. It is critical to give DMR the information necessary to manage a service system for 21,000 people, and will allow significant improvements in DMR's Medicaid billing capacity.

POLICY ISSUES AT DMR

Financing Turning 22

The Turning 22 program is DMR's largest source of new referrals. Every year, approximately 450 people who are eligible for DMR services turn 22, and graduate from their Special Education programs (Chapter 766). The Turning 22 program (Chapter 688), was passed in 1984, and stated that anyone graduating from Special Education programs who was eligible for MR services is entitled to an Individual Transition Plan, listing the appropriate services for them. The law does not mandate that funding be appropriated to fund those services.

Since the law passed, DMR has received various appropriations in the Turning 22 Reserve Account (5911-0006), although never enough to serve all eligible clients. As of the end of FY90, DMR received \$40M over six years, enough to serve 1,324 people (an average cost of \$30,200 per year). There is a waiting list of 1,190 people who have turned 22 since March, 1984, and are still in need of services from DMR.

In FY91, another 450 will turn 22. DMR received \$1.8M, which, when combined with some base vacancies, will serve about 100 of the very neediest of those clients. The waiting list will grow to 1,540. These people will have to wait at home for services now, and may lose their hard-won skills learned in special education, some will become much more difficult to care for at home, and become crisis placements.

DMR is concerned about options to stabilize the funding available to serve this growing population. Thus far, the following long-term strategies have been developed:

- working with local schools and education authorities to try to maintain children at home with their families. By avoiding costly placements into 24-hour residential programs, this brings down the costs and expectations for people turning 22 and their families.
- maintain respite and family support programs to provide the help people need to care for their family members at home.
- working with the Department of Education on strategies to assist school systems in developing transition programs from school to work prior to the 22nd birthday.
- continue to explore expanded community reimbursement and alternative financing mechanisms to fund additional programs.

These are all long-term strategies to control costs and provide alternative funding. In the short-term, this area will continue to be DMR's most pressing expansion funding need.

Placing People Out Of Institutions

There are currently approximately 2,860 people residing in seven large facilities operated by DMR. That is down from 3,907 people in those same schools in 1983. DMR has worked hard for years to place as many people into community placements as possible. The Department continues to make these placements a high priority. Throughout the country, it has been repeatedly shown that people prefer to live in the community, are able to learn more and have far greater opportunities to live a normal life in smaller community residences. DMR is currently working to close Belchertown State School (see Current DMR Program Initiatives), which requires placing 286 people from that school into community placements by the end of FY93.

There is always the problem in making community placements of finding the "seed" money to open the community program before the savings from closing the institutional bed are available. Any money DMR could have freed up to fund new programs has been eroded by budget cuts this year. Further, federal reimbursement tends to favor operating large institutions, although that may be changing with the proposed Chafee bill. In addition, DMR has the added obligation involved in negotiating all school closing or client placement plans with the Consent Decree plaintiffs.

Currently approximately 600 individuals living in the state schools have expressed a desire to consider community living. Given the continuing decline in census and the growing preference of current residents to live in the community it would be worthwhile to consider further consolidations of the state schools. In addition, the capital needs of the aging state facilities suggest consideration of future closings.

Waiting List for Services

In addition to the Turning 22 waiting list described above, DMR has a waiting list of 1,800 people who are too old to be eligible for Turning 22. These people have lived at home their whole lives, cared for by family members. Many of these parents are now elderly themselves, and will not be able to care for their sons and daughters much longer. These families have asked the Commonwealth for very little, assuming full responsibility for the care of their mentally retarded family members. The Department has made every effort to provide day and support services to these families, however, for many of them, this may no longer be enough.

This need will become even more pressing since research shows that people with mental retardation age faster than average, and will need the increased services needed by all elderly people in their late 40's or early 50's.

Status of Contracted Providers

DMR has 1464 purchase of service contracts, worth a total of \$271M this year. During the first half of FY91, DMR has noted a marked rise in instances in which provider agencies have experienced cash flow crises or major solvency issues. This is the result of increased federal enforcement of issues such as compensation for awake overnight staff and state adjustments in workers compensation charges to providers, as well as decreased funding available to providers in real dollars.

During the mid-eighties, the purchase-of-service system experienced a number of targeted funding increases to community programs. Until FY89, providers were generally granted a general base cost-of-living adjustment, as well as additional funding to address salary deficiencies among direct care staff. Since FY89, no COLA or Salary Upgrading funding has been available to providers. As a result, those providers which hope to keep apace with normal increases to their operating expenses will either have to raise their revenues to do so, or they will have to self-fund the item through their fund balances, causing a major erosion in their fiscal stability. If this burden is passed along to the Department, major service cuts could result.

The Department has worked with A&F to implement reforms to the POS system such as performance based contracting and streamlining of contract documents. However, the erosion in fiscal stability seems to be occurring. In the short run, this saves the state money, however, in the long run, providers will go under, jeopardizing the continuity of care to our clients, and causing additional strain on the provider system.

Generic Services

Persons with mental retardation should have access to services that are available to the general public i.e. legal, recreational, medical services. The Department is particularly concerned with gaining better access to a full array of health care services. To this end, the Department has created a Health and Habilitative Council to assist with this effort.

LEGAL ISSUES

Consent Decrees:

In 1972 a group of residents at the Belchertown State School and their parents filed a class action suit against the Commonwealth (Ricci v. Dukakis et al) over conditions at the school. This suit was followed by similar actions on behalf of residents at four other mental retardation facilities: the Wrentham State School, the Fernald State School, the Dever State School, and the Monson Developmental Center. In 1978, the Commonwealth entered into six consent decrees which stipulated a variety of improvements and conditions to be met including but not limited to: staffing ratios, service delivery models, and capital renovations.

In 1986, Judge Tauro issued a three year "disengagement" order which included a list of items to be completed under the decrees and began a period of limited judicial involvement. Recently the parties agreed that all of the items in the three year disengagement order had been completed or were near completion. However, Judge Tauro recently became reinvolved in the wake of the Commonwealth's financial problems.

State Hospitals:

Early this fall two law suits were filed against the Governor, A&F, EOHS, DMH and DMR on behalf of 49 individuals with mental retardation at the two DMH facilities, Taunton State Hospital and Metropolitan State Hospital. The suits call for the Department of Mental Retardation to immediately provide residential services within the MR system for these individuals.

DMR was already working on moving people out of the state hospitals through an innovative funding agreement with the Department of Mental Health. DMR plans to place all people with mental retardation out of mental health facilities and into more appropriate DMR residential programs by September 1991 (See Current DMR Initiatives).

Behavior Research Institute (BRI):

BRI is a Chapter 766 certified residential school licensed by the Department. As part of a savings initiative initiated by the administration and included in the FY'91 Appropriations Act, the Department is currently paying FY'90 Bureau of Education and Social Services (BESS) rates. (Other contracted providers have not received a cost of living increase since FY'89.) BRI has filed a law suit charging A&F, EOHS and DMR with violating rate



setting agreements. Were the Department to lose this suit, the precedent could cost the Commonwealth millions.

Eligibility

While the Department currently adheres to the American Association of Mental Retardation (AAMR) definition of mental retardation, DMR's eligibility standards are continually being challenged. Each year the Department hears approximately 30 eligibility appeals from individuals who may not fit this standard definition of mental retardation, but do experience some deficits in cognitive functioning and/or adaptive skills.

LEGISLATIVE ISSUES

On November 7, 1990, the Department filed four (4) bills for consideration during the 1991 legislative session:

1. AN ACT CREATING A TRUST FUND FOR THE BENEFIT OF MENTALLY RETARDED PERSONS IN WESTERN MASSACHUSETTS

Authorizing the sale of the carousel located on the grounds of the Belchertown State School and directing that the proceeds from such a sale be deposited in a trust fund under the control of the State Treasurer. The bill also establishes a seven-person advisory board which would recommend appropriate expenditures from the trust fund. The commissioner of Mental Retardation, as trustee, would direct that expenditures be made from the trust fund solely for the benefit of persons with mental retardation in Western Massachusetts.

2. AN ACT RELATIVE TO ALTERNATIVE PROCEDURES FOR TAKING TESTIMONY OF A CHILD OR MENTALLY RETARDED WITNESS

Amending Chapter 278 of the General Laws by inserting a new section 16D relative to the taking of testimony from a child or a person with mental retardation during a judicial proceeding. The court would determine whether an alternative procedure for taking the testimony of such a witness would be allowed, and would be required to enter specific findings upon the record describing the reasons for its determination. Four alternative methods for taking testimony from such a witness are detailed, and the procedure by which such testimony would be taken is also detailed. The proposal includes the rights of a defendant during the taking of testimony by alternative procedure.

3. AN ACT RELATIVE TO THE APPOINTMENT OF A TEMPORARY GUARDIAN BY A GUARDIAN.

Amending section 37 of Chapter 201 of the General Laws to allow a guardian to delegate, through a power of attorney, another person to serve as temporary guardian for a period of up to six months. The bill would alleviate the need for a specific court hearing to appoint a temporary guardian during periods of planned absence or unavailability of the guardian.

4. AN ACT RELATIVE TO THE APPOINTMENT OF A STANDBY GUARDIAN.

Amending section 33 of Chapter 201 of the General Laws, and adding a new section to that Chapter, to allow for the appointment of a standby guardian at the request of the guardian. The bill allows for the appointment of a standby guardian who would assume the duties of the guardian immediately upon the death of the guardian or upon the adjudication of incompetency of the guardian to fulfill his duties.

In addition, the legislative office tracks and monitors approximately 140 bills filed during the 1990 session relating to issues of interest to people with mental retardation and to the Department. Matters covered by legislation being tracked represent a wide area, including services to people with mental retardation, expanding existing services, instituting new services, issues of interest to employees of the Department, issues relating to property under the control of the Department, and the imposition of new safeguards to protect programs and rights of people with mental retardation.

PERSONNEL

Historical FTE summaries are attached which describe personnel information from July 1, 1988 to December 31, 1990. Also attached is a Fact Sheet on the Impact of DMR Budget Reductions.

Staffing levels at five state schools (BSS, MDC, WSS, FSS and DSS) for the mentally retarded are determined by the Federal Court Consent Decrees regarding personnel. These staffing levels are determined by the Wrentham State School Client Information Tool (WSSCIT), the Court approved single staffing methodology.

Further, certain minimum staffing levels for many position categories at all seven state schools and the Intermediate Care Facilities (ICFs-MR) are also required for Title XIX certification.

In the past three years, over 1,300 staff from the state schools have been transferred to newly constructed state operated community residences to care for the 433 residents who now live there. Although the Federal Court does not recognize ratios as a legitimate guideline, for descriptive purposes staff/resident ratios in each state school are as follows:

DSS	1:3.72
FSS	1:2.80
GRC	1:2.98
HRC	1:2.80
MDC	1:2.88
WSS	1:3.06

TOTAL AVERAGE: 1:2.99

AFFIRMATIVE ACTION/EEO

DMR has made great strides in increasing the number of staff who are protected class members. Since becoming a new agency, DMR has increased it's minority staff in every category for an overall increase of 2%, and the number of Vietnam Era Veterans by 28%. Also, through intensive efforts the number of staff who have self-identified has increased by 98%. DMR has instituted an agency wide training program for managers regarding disability issues and developed a training program regarding affirmative action issues.



LAYOFFS

CENTRAL OFFICE & COMMUNITY SERVICE CENTERS

	<u>7/1/90 - 12/31/90</u> <u>FTEs</u>
Managers	19
Administration	32.5
Direct Services	<u>7</u>
	58.50

STATE SCHOOLS

	<u>Facilities</u>	<u>GRC/HB/Community</u> <u>Service Centers</u> <u>Consolidation</u>	<u>Total</u>
Administration	110	15	125.0
Core Services	134.5		134.5
Clinical Services	71	6	77.0
Direct Care	<u>201.9</u>	<u>5</u>	<u>206.90</u>
Sub Total	517.4	26	543.4
Belchertown	<u>42.0</u>	<u>—</u>	<u>42.00</u>
Total	559.40	26	585.40

AGENCY: Department of Mental Retardation

CONTACT: Karen A. Gay

	FTE'S		FTE'S		FTE'S		FTE'S	
	7/1/70 to 12/31/70	STATE (FEDERAL) TOTAL	7/1/70 to 12/31/70	STATE (FEDERAL) TOTAL	7/1/70 to 12/31/70	STATE (FEDERAL) TOTAL	7/1/70 to 12/31/70	STATE (FEDERAL) TOTAL
STATE (FEDERAL) TOTAL	28	28	6	6	1	1	1	1
ADULTS	215.9	215.9						
ADOLESCENTS	391.0	391.0						
TOTAL	640.90	640.90						

In the space below, please specify the job titles categorized as direct care:

APPROPRIATION ACCOUNT	07/01/88	07/01/89	07/07/90	12/1/90 PROJECTED	12/31/90 PROJECTED
5911-0100 ADMINISTRATION	345.00	358.00	292.96	277.96	264.46
5911-0025 TRANSPORTATION	10.50	11.50	8.50	7.50	7.50
5948-0000 COMMUNITY	586.00	570.00	559.59	557.59	550.59
5983-0100 FACILITIES	10,179.86	10,300.27	10,345.41	9,772.91	9,769.91
AGENCY TOTAL	11,121.36	11,239.77	11,206.46	10,615.96	10,592.46

MANAGEMENT FTEs

January 1989	354
July 1990	309
December 1, 1990	284
December 31, 1990	276 (22% reduction)

*THERE HAS BEEN A 22% DECREASE IN MANAGEMENT STAFF SINCE JANUARY 1989.

AGENCY: Department of Mental Retardation

\$ Millions

ACCT NAME	ACCT #	FY'88			FY'89			FY'90			FY'91			VARIANCE
		FY'88 APPROP	FY'88 REVENUES/SAVINGS	FY'88 SPENDING	FY'89 APPROP	FY'89 REVENUES/SAVINGS	FY'89 SPENDING	FY'90 APPROP	FY'90 REVENUES/SAVINGS	FY'90 SPENDING	FY'91 APPROP	FY'91 REVENUES/SAVINGS	FY'91 AVAILABLE	FY'91 - FY'88 APPROP
APPROPRIATIONS														
Transport.	5911-0025	26.3	1.2	25.1	30.4	0.6	29.8	31.3	6.7	24.6	25.8	1.0	24.8	(1.5)
Administ.	5911-0100	2.6	0.1	2.5	15.0	0.3	14.7	17.1	1.1	16.0	14.6	0.6	14.0	11.4
Children's	5947-0000	1.3	0.1	1.2	2.9	0.1	2.8	4.0	0	4.0	3.8	0.1	3.7	2.4
Community*	5948-0000	190.9	5.7	185.2	236.0	3.2	232.8	250.8	1.3	249.5	245.0	0	245.8	54.9
Facilities	5983-0100	259.6	1.7	257.9	283.9	1.4	282.5	293.9	0	293.9	282.1	0	296.6	37.0
TOTAL APPROPRIATIONS		480.7	8.8	471.9	568.2	5.6	562.6	597.1	9.1	588.0	571.3	1.7	584.9	104.2
* Includes 5911-0006 Turning 22 Reserve RETAINED REVENUE														
Sliding Fee/Rents	5948-1000	-	-	-	200,000	0	0	200,000	0	0	1.4	0.05	1.4	
Templeton DMH Hosp.	5982-1000	-	-	-	40,000	0	0	40,000	0	19,139	0.1	-	0.1	
	5983-1000	-	-	-	-	-	-	-	-	-	4.8	-	4.8	
TOTAL RETAINED REVENUE		-	-	-	240,000	0	?	240,000	0	?	6.3	.05	6.3	6.3
TOTAL APPROP + RET. REVENUE		471.9			562.9			588.0			591.2			110.5

FY'91 PROJECTED DEFICIENCIES/SUPPLEMENTALS

(Include only those deficiencies which have been approved by EOHHS. If there are differences from the amount EOHHS is carrying, contact the EOHHS Budget Unit.)

AGENCY Department of Mental Retardation

ACCT NAME	ACCT #	\$ AMOUNT	JUSTIFICATION
Facilities	5983-0100	\$9,172,916	Base personnel and FY'90 costs
	5983-0100	5,300,500	PERA chargeback (worker's compensation)
Community Services	5948-0000	\$875,000	Portion of restoration of service coordination services agreed to in Federal Court
TOTAL		\$15,348,416	

AGENCY Department of Mental Retardation

DESCRIPTION	FY'88	FY'89	*	**	VARIANCE FY'91-FY'88
	164.4M	170.2M	180.6M	199.8M	+21.5%

TOTAL GEN'L FUND REVENUE

* accrual basis
** estimated

LIST AND DESCRIBE ALL REVENUE PROJECTS AND INCLUDE THE ANNUALIZED AMOUNT OF PROJECTED REVENUE:

1. Recover Medicare Part B Reimbursement for physicians and lab services - cost savings 250K.
2. Recover Retroactive Medicaid Reimbursement for transportation services - \$500K.
3. Work with Comptroller and A&F to revise indirect cost allocations.
4. Revise state schools charge for care regulation - revenue neutral.
5. Amend section 2176 waiver to increase client and cost caps - projected revenue \$14M.

FEDERAL FUNDS

LIST AND DESCRIBE BRIEFLY ALL FEDERAL FUNDS RECEIVED BY YOUR AGENCY IN FY'91 AND PROJECTED
FY'92 FEDERAL FUNDING:

NAME OF GRANT	FY'91	FY'92	BRIEF DESCRIPTION
			PROJECTED
Temporary Res- \$113,192			Respite services to Cambodian families in the
Respite Care for			Greater Lowell area with developmentally
Cambodian Families			disabled children at home.
Respite Care \$74,985			Respite services for families who have
			children with autism.
TOTALS	\$188,177	\$74,985	

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